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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

re Patent Application of )  
Avram Glazer ) Group Art Unit: 3627  
Application No.: 09/545,875 ) Examiner: Elaine L. Gort  
Filed: April 7, 2000 ) Appeal No.:  
For: SYSTEM OF CONSISTENT )  
INTERNET WEB SITE BANNERS )  
THAT PROVIDE PORTAL-LIKE )  
FUNCTIONALITY )

REPLY BRIEF

**Mail Stop APPEAL BRIEF - PATENTS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Reply Brief is being filed to: (A) address new points raised in the Examiner's Answer which reflect a misunderstanding of Appellant's arguments regarding claim 1; and (B) address the Examiner's alleged support for prior assertions of Official Notice.

A. Appellant has argued that claim 1 is allowable because it recites a combination of features which encompasses:

- establishing a connection between: (1) a file stored on a file server; and (2) a web page stored on a second server; and
- causing contents of said file to appear within a banner displayed **within** the web page at a communications device **whenever** the communications device downloads said page for display.

In maintaining the rejection of claim 1 based on the Wolfe patent, the Examiner misconstrues Appellant's prior arguments.

The Examiner's Answer, in the paragraph bridging pages 7-8, states:

It appears the Appellant is arguing that the supplemental data [of the Wolfe patent] must be communicated from the first server to the second server in order for the claimed connection to exist. This limitation is not in the claim.

Appellant is **not** arguing that supplemental data must be communicated from the first server to the second server in order for the claimed combination to exist. Rather, Appellant is arguing that a "connection" between a file stored in a first server, and a web page stored on a second server must exist, such that contents of the file will appear within a banner displayed **within** the web page at a communications device **whenever** the communications device downloads the web page for display.

The Wolfe patent does not disclose: (1) establishing a connection as claimed; or (2) causing file content from a first server to appear within a banner **within** a web page **whenever** the web page is downloaded from a second server.

The paragraph bridging pages 7-9 of the Examiner's Answer states:

Additionally [claim 1] does not claim that the banner information is saved within the saved webpage file as it appears the Appellant is arguing.

Appellant's argument is not directed to saving banner information within a saved web page. Rather, Appellant's argument is that claim 1 encompasses a feature whereby contents of the first file "appear" within a banner displayed "within" a web page at a communications device.

In the Wolfe patent, the relied upon display element 3305 of Figure 32 is not displayed "within" the browser window 2901 as presently claimed. This is because the "connection" established in Appellant's claim 1 combination does not exist in the Wolfe patent.

In Fig. 32 of Wolfe, a web page (e.g., Hunan Taste web page) is displayed in browser window 2901 of a client browser:

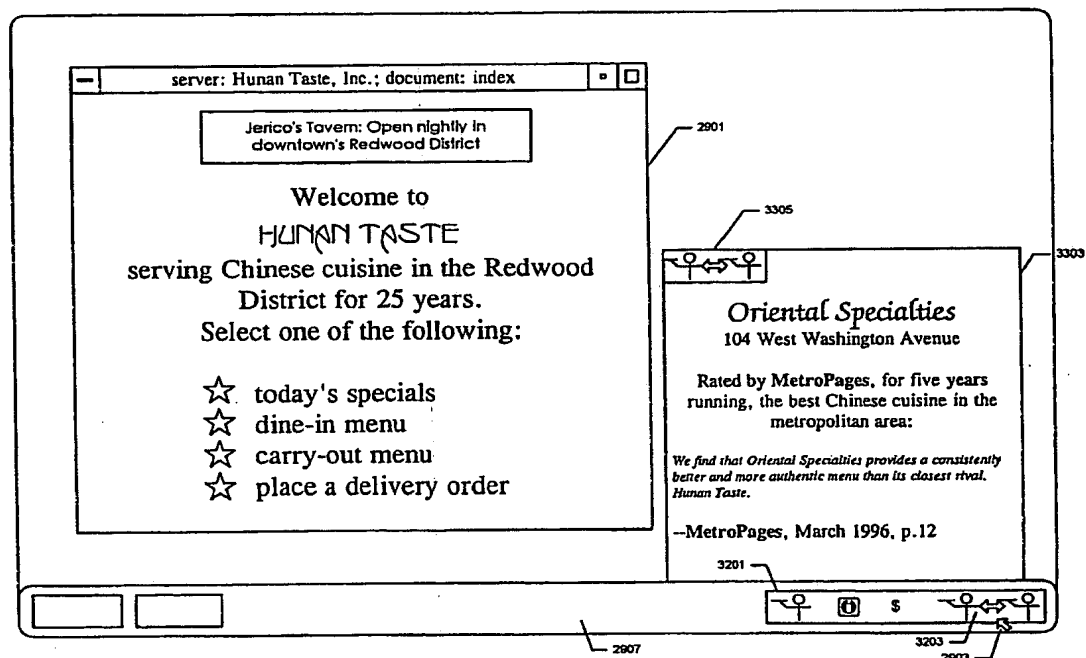


Figure 32

The display element 3305 of Fig 32 is clearly not displayed within the Hunan Taste web page 2901. Rather, the display element 3305 is displayed in a separate window 3303. This separate window is established under the control of the client computer 902, which separately downloads the web page 2901 and the display element 3305. Column 14, line 59 to column 15, line 31 describe the sequential process by which information from different servers is accessed to display information in separate

windows of a client computer 902, without the benefit of Appellant's claimed "connection". Accordingly, in the Wolfe patent, contents of a file do not appear **within** any banner displayed **within** a web page, as recited in Appellants' claim 1, nor are such contents displayed **whenever** the communications device (i.e., client computer 902) downloads the page for display.

The Davis patent fails to overcome deficiencies of the Wolfe patent as discussed in Appellant's Brief, the contents of which are incorporated herein by reference.

The Examiner's rejections appear to be based, at least in part, on the Examiner's prior rejection under 35 U.S.C. §112. The §112 rejection having been withdrawn, claim 1 and all dependent claims are deemed allowable.

B. On page 8 of the Answer, the Examiner asserts:

Appellant has made a blanket argument that the Examiner's citing of Getchius "fails to support any of the assertions of "Official Notice" for which it is relied upon by the Examiner and thus fails to comply with 37 CFR § 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In rejecting claims 1-14 and 44-46, the Examiner has taken "Official Notice" with respect to what is asserted as the "old and notorious use of scrolling, a search function linking to products on a [manufacturer's] site and graphic manuals, as well as the feature of the headlines being stored in a file that is downloaded to a user's site when the user selects the category associated with the headlines." The

Examiner now relies upon newly cited U.S. Patent No. 6,496,843 (Getchius et al) to support the "Official Notice."

The Getchius patent is directed to a system for performing online data queries. Figures 9, 13, 15, and 16, referenced by the Examiner in the Answer, do not teach or suggest establishing a "connection" as recited in Appellants' claim 1, nor do they teach or suggest "causing ... the contents of said file to appear within a banner" as recited in Appellant's claim 1. As such, this patent can not support the Examiner's assertions of Official Notice regarding the more detailed banner features recited in Appellant's claims 2-5, 9-11, 13-14 or 50. Similarly, this patent cannot support the Examiner's assertions of Official Notice regarding the banner content and configuration features recited in Appellant's claims 44-45, or the establishment of an additional "connection" as recited in claims 47-49.


In light of the foregoing, reversal of the final rejection and allowance of claims 1-14 and 44-50 are requested.

Respectfully submitted,

Buchanan Ingersoll and Rooney PC

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